

# Notice of Allowability

Application No.

10/722,787

Examiner

David L. Vanik

Applicant(s)

ULMER ET AL.

Art Unit

1615

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/13/2005.
2. ☒ The allowed claim(s) is/are 1, 2 and 4-18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

### DETAILED ACTION

Receipt is acknowledged of the Applicant's Amended Claims filed on 6/2/2005.

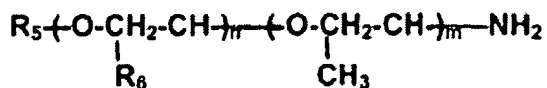
Receipt is also acknowledged of Applicant's Terminal Disclaimer filed on 10/13/2005.

### EXAMINER'S AMENDMENT

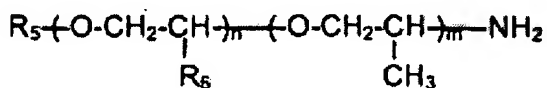
An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Davis on 11/22/2005.

1) In claim 1, on page 3, lines 1-2, the following structure:



was replaced with the following structure:

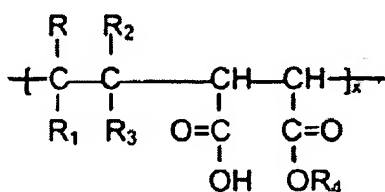


2) In Claim 1, on page 3, lines 6-7 of the instant claim set, "; a personal care ingredient and water and/or ethanol." was replaced with "; water and/or ethanol."

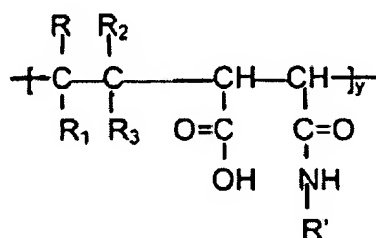
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3) The final amended claim 1 reads as follows:

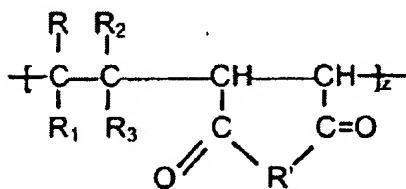
Claim 1. (Currently Amended) A personal care composition which includes a mixture of (A), a polymer characterized structurally by repeat units of (a) a monomer-maleic anhydride alkyl half-ester or full acid, (b) maleamic acid, and (c) maleimide, of the formulas:



(a) half-ester or full acid



(b) maleamic acid

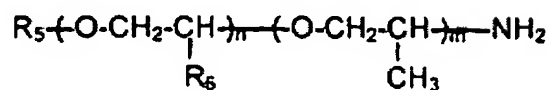


(c) maleimide

where:

R, R<sub>1</sub>, R<sub>2</sub> and R<sub>3</sub> are selected from H, alkyl, alkoxy, cycloalkyl, aryl, ester, acid, hydroxy, hydroxyalkyl, amido, amino, lactam, chloro, fluoro, halo and silyl, and R<sub>4</sub> is H or alkyl; and

R' is a derivatizing group ~~selected from X, a hydrophobic amine; Y, a hydrophilic amine; and Z, a polyether amine; and suitable mixtures thereof; wherein~~ which is a polyoxyalkylene amine, having the formula:



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**where  $R_5$  and  $R_6$  are selected from H and alkyl; and n and m are integers from 1-50;**

x, y and z are present, in mole %, of 0-99.9, 0-50 and 0.1-100, respectively; and

~~X, Y and Z are present in mole ratios of 0-50:0-100:0-20,~~

and (B) a compound or polymer having a carboxylic acid functionality

; water and/or ethanol.

4. In Claim 17, on page 5, line 16 of the instant claim set, "A cosmetic or dermatological," was replaced with "A cosmetic".

5. The final claim 17 reads as follows:

Claim 17. A cosmetic film-forming composition according to claim 1 for producing a water-resistant film demonstrating excellent hold, and durability properties.

6. In Claim 18, on page 6, line 1 of the instant claim set, "A cosmetic or dermatological," was replaced with "A cosmetic".

7. The final claim 18 reads as follows:

Claim 18. A cosmetic film-forming composition according to claim 17 which is a mascara product exhibiting excellent high humidity and moisture resistance.

8. Claim 19 is cancelled.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: The prior art does not teach or fairly suggest the product as set forth in the instant claim 1. The following are cited as patents of interest that are recognized as the closest prior art: US Patent 6,025,501, US Patent 5,994,385, and US Publication 2004/0042989 are cited as patents of interest in their disclosure of polymer comprising (a) a monomer-maleic anhydride alkyl half-ester or full acid, (b) maleamic acid, and (c) maleimide. US Patent 6,025,501, US Patent 5,994,385, and US Publication 2004/0042989 are applicant's own work and appear to be the closest prior art.

It should be noted that the Double Patenting Rejection over application 10/353,390 has been removed as a result of the Terminal Disclaimer filed on 10/13/2005.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


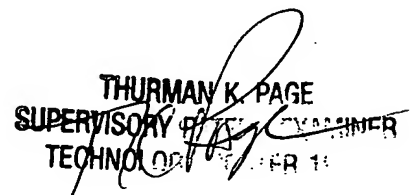
**Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Vanik whose telephone number is (571) 272-3104. The examiner can normally be reached on Monday-Friday 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Vanik, Ph.D.  
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11/22/08  
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